

RESEARCH ARTICLE

The Ethics of Procreation: From the Ancient Female Infanticide (*wa'd al-banāt*) to the Modern Sex Selection

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ABSTRACT

The emergence of modern biomedically assisted sex selection for non-medical reasons facilitates parents to desire the sex of a fetus. This practice raises many ethical questions that centers around human value and dignity. The notion and practice of infanticide are categorically prohibited in Islam. The aim of this research is to understand whether the non-medical sex selection practice is a form of pre-Islamic paganistic (*jāhiliyyah*) infanticide and whether the reasons that persuade the parents to opt for such a practice resemble the causes that used to motivate the *jāhili* Arabs. The research analyzes the status of surplus embryos produced through the sex selection process in order to mark the beginning of human life and consequently to determine whether the termination of the

Received 11 June 2020; accepted: 25 August 2020; published September 2021

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Cite this article as: Azad, H. (2021). The Ethics of Procreation: From the Ancient Female Infanticide (*wa'd al-banāt*) to the Modern Sex Selection

Astrolabe: A CIS Student Research Journal, (3)

<https://www.hbku.edu.qa/sites/default/files/EthicsofProcreation.pdf>

fetuses that will not be used is considered as infanticide. Some scholars and physicians opine that the surplus embryos in the process of sex selection have life; thus, killing them is similar to killing life, i.e., a similarity to pre-Islamic infanticide in essence and in the factors.

Keywords: sex selection, infanticide, non-medical reasons, ethical, beginning of life, embryos

RESEARCH QUESTION

Is sex selection for non-medical reasons a modernized form of the ancient and ethically abhorrent infanticide?

INTRODUCTION

Sex selection with the help of modern advanced biomedical technologies is a process that involves techniques such as *in vitro* fertilization (IVF) and pre-implementation genetic diagnosis (PGD). IVF is a form of assisted reproductive technology (ART) that helps extract an egg from a woman's ovary and getting it fertilized by a sperm. After the fertilized egg starts to divide, it is transferred back into the woman's uterus.¹ PGD is the genetic testing of embryos, which increases the chances of having a successful IVF process and decreases miscarriages that may occur when the implanted embryo has (genetic) deformities.² These biomedical techniques considerably decrease the chance of having health-related diseases and are of great help for improving human well-being.

The main purpose of using advanced techniques such as IVF and PGD is to help infertile couples have children that they otherwise would have never had. Hence, many Muslim religious scholars permitted the use of ART in principle,³ recalling the formation of the Standing Committee for Sharia Medical Ethics to observe the scientific development of ART and witness its religious and social implications.⁴

Besides infertility treatment, the processes of IVF and PGD can also be used for

1 Mahdi Zahraa and Shaniza Shafie, "An Islamic Perspective on IVF and PGD, with Particular Reference to Zain Hashimi, and Other Similar Cases," *Arab Law Quarterly* 20 (2006): 161, <https://doi.org/10.1163/026805506777585685>.

See also: Kathryn Ehrich, Clare Williams, and Bobbie Farsides, "The Embryo as Moral Work Object: PGD/IVF Staff Views and Experiences," *Sociology of Health & Illness* 30 (2008): 777, <https://doi.org/10.1111/j.1467-9566.2008.01083.x>.

2 Ilan Tur-Kaspa and Roohi Jeelani, "Clinical Guidelines for IVF with PGD for HLA Matching," *Reproductive Biomedicine Online* 30 (2015): 115–19, <https://doi.org/10.1016/j.rbmo.2014.10.007>.

3 Marica C. Inhorn and Soraya Tremayne, "Islam, Assisted Reproduction, and the Bioethical Aftermath," *Journal of Religion & Health* 55 (2016): 423, <https://doi.org/10.1007/s10943-015-0151-1>.

4 G. I. Serour and B. M. Dickens, "Assisted Reproduction Developments in the Islamic World," *International Journal of Gynecology & Obstetrics* 74 (2001): 188–89, doi:10.1016/s0020-7292(01)00425-8.

selecting the gender in the embryo stage, where one to three embryos out of many intended with the specific gender are chosen to be implanted in the uterus and others are frozen for later use or destroyed.⁵ This form of sex selection denotes preferring one gender over another for many social and economic reasons, which evoke the scenario of the pre-Islamic age, *‘Aṣr al-Jāhiliyyah*, when having girls used to be thought of as a source of shame, disgrace, and humiliation in the family. Hence, they were sometimes buried alive, which the Qur’an refers to as the phenomenon of female infanticide (*wa’d al-banāt*). The Qur’an reads, “And when one of them is informed of [the birth of] a female, his face becomes dark, and he suppresses grief. He hides himself from people because of the ill of which he has been informed. Should he keep it in humiliation or bury it in the ground? Unquestionably, evil is what they decide” (16: 58–59).

The practice of sex selection raises a number of questions; for instance, does this practice resemble the pre-Islamic notion of female infanticide? If not, would Islam allow sex selection for non-medical reasons? Is terminating the surplus male or female embryos in the process of selecting gender tantamount to homicide?

In order to answer the above questions systematically, first, we will present the pre-Islamic phenomenon of female infanticide (*wa’d al-banāt*) and the reasons behind such a practice to assess whether or not the modern form of sex selection is motivated by the same reasons. Then, we will address the viewpoints of contemporary Muslim scholars about whether modern sex selection for non-medical reasons is allowed and whether having the surplus embryos destroyed in the sex selection process is similar to homicide, just like the female infanticide in pre-Islamic Arabia.

FEMALE INFANTICIDE OF PRE-ISLAMIC ARABIA

In order to demonstrate the infanticide phenomenon of pre-Islamic Arabia and the reasons behind such a practice, we mainly consult the Quranic exegeses and explore their interpretation due to the explicit verses mentioned in the Qur’an that describe infanticide of that time. In addition, we refer to the literature that provides insights into this phenomenon. Several verses in the Qur’an describe the custom of infanticide, which seems to have been widespread in the pre-Islamic Arab society for several reasons related to the nature and structure of that society. Moreover, nearly all the verses related to infanticide were revealed in the Meccan context which indicates the wrongdoings of the pre-Islamic Arab society.⁶

The Qur’an says: “And do not kill your children for fear of poverty. We provide for them and for you...” (Qur’an 17: 31). This verse indicates the occurrence of infanticide of

5 Mohammed Ghaly, “The Beginning of Human Life: Islamic Bioethical Perspectives,” *Zygon* 47 (2012): 183, <https://doi.org/10.1111/j.1467-9744.2011.01245.x>.

See also: ‘Abdullah Bāsālāmah, “Fate of Bank Deposited Embryos,” *Islamic Organisation for Medical Science* (1987), http://islamset.net/bioethics/vision/dr_abasalamah.html.

6 Avner Giladi, “Some Observations on Infanticide in Medieval Muslim Society,” *International Journal of Middle East Studies* 22 (1990): 186, <http://www.jstor.org/stable/163739>.

both sexes but that of girls was more predominant in the pre-Islamic age. The truth of this can be found in al-Ṭabarī's interpretation of the verses of Chapter 81. He mentions a hadith report that states about Qays ibn Ḍāsim who informed the Prophet about burying eight daughters alive during the time of *Jāhiliyyah*.⁷ Moreover, al-Qurṭubī stated that a person named Ṣa'sa'a is believed to have saved up to 70 girls by purchasing them from their fathers.⁸

Numerous superstitions and reasons can be noted, which are believed to have prompted such a morbid practice. Among them are the following:

a. Poverty

Though the Qur'an in Chapter 17 states about pre-Islamic Arabia's killing of children of both sexes due to the fear of poverty, killing of daughters prevailed as found in the exegeses. This is because, with the adverse climate conditions of the Arab region such as frequent famines due to droughts and subsequent dearth of food and production, girls were viewed as less productive than boys. Fathers were concerned about more mouths to feed in the case of daughters, while yielding nothing for the family.⁹ In addition, daughters were considered "incompetent" or rather "mere ornaments" whose uselessness was reflected through their wearing ornaments and inability to participate in useful activities such as arguments.¹⁰ In this regard, the Qur'an points out a common protest of the era: "What! [Am I to have a daughter-] one who is to be reared [only] for the sake of ornament?" (Qur'an 43:18).

b. Fear of Shame and Humiliation

Another reason why the Arab pagans used to commit female infanticide is due to fear of disgrace and humiliation that they may have to go through once their daughters are taken as captives and enslaved. It is also stated that fathers were concerned that they would be forced to marry off their daughters to people they did not like.¹¹ Tribes such as *Khuzā'ah*, *Mudār*, and especially *Tamīm* were known for this immoral practice.¹²

c. Ritualistic Sacrifice

Another reason why daughters were sacrificed is due to the blind loyalty of pagan Arabs

7 Al-Ṭabarī, *Jāmi' al-Bayān fī Ta'wīl al-Qurān* (Beirut: Muassasah al-Risālah, 2000), 248, v. 24.

See also: Ibn Kathīr, *Tafsīr al-Qurān al-'Ajam* (Riyad: Dār al-Ṭayyibah, 1999), 335, v. 8.

8 Al-Qurṭubī, *Tafsīr al-Qurṭubī* (Cairo: Dār al-Kutub al-Miṣriyyah, 1985), 233, v. 19.

9 Muslim Women's League, "Women in Pre-Islamic Arabia," 1995, <https://www.mwusa.org/topics/history/herstory.html>.

10 Ibn Kathīr, *Tafsīr al-Qurān al-'Ajam*, 233, v. 7.

11 Azizah al-Hibri, "A Study of Islamic Herstory: Or How did We Ever Get into This Mess?" *Women's Studies International Forum* 5 (1982): 209.

See also: Al-Qurṭubī, *Tafsīr al-Qurṭubī*, 232–33, v. 19.

See also: Al-Rāzī, *Mafātiḥ al-Ghayb* (Beirut: Dār Ihyā' al-Turāth al-'Arabi, 1999), 66, v. 31.

12 Al-Qurṭubī, *Tafsīr al-Qurṭubī*, 117, v. 10.

See also: Al-Tha'labī, *Al-Kashf wa'l-Bayān* (Beirut: Dār Ihyā' al-Turāth al-'Arabi, 2002), 23, v. 6.

to their partners (*shayāfīn*) to whom they used to worship,¹³ as the Qur'an points out: "And likewise, to many of the polytheists, their partners have made [to seem] pleasing the killing of their children in order to bring about their destruction and to cover them with confusion in their religion..." (6:137).

Some exegeses mentioned that aside from satans, the partners also included the ones (mediators) who used to serve the idols or the wicked people who would ordain Arab pagans' daughters to be slain.¹⁴ Infanticide in *Jāhiliyyah* was glorified and made attractive. A pagan Arab would form an oath to God about sacrificing one of his children once he is granted a child of his own longing, as evidenced in the case of the Prophet Muhammad's grandfather who swore to God about sacrificing the Prophet's father Abdullah.¹⁵

d. III Health

A daughter exhibiting lack of good health or appearing ill, weak, or diseased was yet another reason that contributed to female infanticide in pre-Islamic Arabia. For example, people would bury their daughters alive if they were bluish in color, had many spots on their bodies, or were hairy as these were regarded as bad omens.¹⁶

From the above-mentioned Quranic verses and their interpretations, one can conclude that the pre-Islamic infanticide practice specifically targeted female children more due to the above-mentioned social, economic, and ritualistic reasons. This clearly indicates that there was a dominant preference for a particular gender, namely male children, which also took the form of putting the life of early-born female children to an end. Thus, in one way or another, one can speak of a primitive form of sex selection.

In the modern era of scientific and technological developments, biomedical advancements can help people to opt for sex selection by avoiding female embryos (and thus not killing any born female child as in pre-Islamic Arabia) and by choosing to implant male embryos in the uterus of the woman. The question arises as to whether sex selection of any gender is allowed for a non-medical reason from an ethical and religious viewpoint, which will be answered below.

NON-MEDICAL SEX SELECTION AS VIEWED BY CONTEMPORARY MUSLIM RELIGIOUS SCHOLARS

Has biomedically assisted sex selection practice for non-medical reasons been undertaken? The answer is affirmative. In face-to-face interviews with 31 Arab women conducted by Bokek-Cohen and Tarabeih, various non-medical reasons for sex selection were mentioned

13 Al-Ṭabarī, *Jāmi' al-Bayān*, 137, v. 12.

14 Al-Qurṭubī, *Tafsīr al-Qurṭubī*, 91, v. 7.

See also: Al-Ṭabarī, *Jāmi' al-Bayān*, 137, v. 12.

15 Al-Zamaksharī, *Tafsīr al-Zamaksharī* (Beirut: Dār al-Kitāb al-'Arabī, 1986), 70, v. 2.

See also: Al-Tha'labī, *Al-Kashf*, 194, v. 4.

16 Jawād 'Alī, *Al-Mufaṣṣal fī Tārīkh al-'Arab Qabla 'l-Islām* (Beirut: Dār al-Sāqī, 2001), 89, v. 9.

See also: 'Alī al-Ḥalabī, *Al-Sīrah al-Ḥalabiyyah* (Beirut: Dār al-Kutūb al-'Ilmiyyah, 2006), 68, v. 1.

by the interviewees who underwent the process of sex selection with the hope of having a boy. Some women said that the male heir will preserve the lineage and the family tree as opposed to the daughter who moves to her husband's family. Some other women spoke about utilitarian reasons, such as having sons who tend to stay close to their parents and take good care of them in their old age. Some women pointed out social and familial reasons. They said that the husband who has only daughters will lack respect in the society and would thus feel inferior due to name tagging. Furthermore, the mother-in-law will threaten that her son will get married to another woman. Another reason is the desire of family balancing (i.e. to not miss out on the unique mother-son relationship). One group of women gave excuses for preferring a baby boy to a baby girl, such as a boy would provide bone marrow to his sister or donate a kidney to his father.¹⁷

All of the above reasons for choosing to undergo a biomedical sex selection process provided by the interviewees are non-medical. With regard to non-medical reasons for sex selection, majority of Muslim scholars and physicians rule out its permissibility. A workshop organized by the International Islamic Centre for Population Studies and Research (IICPSR) at al-Azhar University strongly opposed the use of IVF and PGD for sex selection, and argued that this practice would open the door to discrimination against female embryos and fetuses.¹⁸ Though selecting gender does not go against the will and power of God,¹⁹ it is still prohibited in principle, excluding exceptional cases such as sex-related diseases.²⁰ This practice would go against the divine demographic order, create demographic imbalance in society, and may eventually be a reason for same-sex relations. In addition, there is no basis for allowing this practice as sex is not a disease that we need to avoid.²¹

Some Muslim scholars and physicians who stand by the opinion of the majority, however, have opined that particular social reasons may be considered to permit gender selection for certain individuals under very specific circumstances. For instance, the general prohibition of gender selection may lead some women to vulnerable situations in societies where having sons remain central to women's well-being and status. There are societies where women are devalued to an extreme extent, such as being subjected to mental and physical torture and being forced to end their marriages with divorce due to excessive birth of girls and no sons. In such circumstances, some scholars and physicians would speak of the permissibility of sex selection.²² Moreover, family balancing may be considered acceptable for families where several girls have been delivered by the wife and there is no boy or vice versa.²³ However, these reasons may only be considered with the condition that there cannot be any prejudice against either sex and the process cannot involve a third person other than the married couple in both the sexual relationship and the resulting procreation.²⁴

23 G. I. Serour, "Islamic Perspectives in Human Reproduction." *Reproductive Biomedicine Online* 17 (2008): 36, <https://www.ncbi.nlm.nih.gov/pubmed/18983735>.

See also: Serour and Dickens, "Assisted Reproduction," 190.

24 Hassan Chamsi-Pasha and Muhammed Ali Albar, "Assisted Reproductive Technology: Islamic Sunni Perspective," *Human Fertility* 18 (2015): 107, <https://doi.org/10.3109/14647273.2014.997810>.

On the other hand, some Muslim scholars find sex selection unproblematic, stating that selecting gender for non-medical reasons should be permissible since there is no scriptural prohibition. This opinion was expressed by the late Azhārī scholar Muḥammad Ra'fat 'Uthmān (d. 2016). He premised his opinion on the juristic principle that everything in the universe is available for human exploitation and can be used by humans as long as it is not harmful.²⁵ Moreover, the proponents of sex selection for non-medical reasons also state that if asking or praying to God for having a son or daughter is allowed, it is also permissible to pursue it through other means.²⁶

Possibly an additional argument for the proponents of sex selection is some writings in the Islamic tradition. Certain classical commentaries on hadith literature and works written by Muslim physicians, such as Ibn Sīnā (d. 1037) and Al-Rāzī (d. 925), provided instructions on how to procreate boys in particular. For example, they said that boys are born from the right side of the body and girls from the left side. A boy is conceived if the sperm is warm and enters the right side of the womb, which is also the warmer part as it is closer to the liver.²⁷ A hadith explains that when the seed of the man meets the seed of the woman, the seed that dominates determines the sex of the fetus.²⁸

Remarkably, both the opponents and proponents of sex selection focus on either the good or bad consequences of this practice, without touching upon the moral status of the embryo. The following section aims to fill this gap.

THE STATUS OF EMBRYO IN RELIGIOUS SCHOLARS' DISCOURSE ON THE BEGINNING OF HUMAN LIFE

As mentioned earlier, selecting sex through modern biomedical techniques such as IVF and PGD involves creating more than one embryo. This procedure raises concerns about the fate of surplus embryos that may be ultimately terminated. Whether the destruction of these embryos is an act of killing or not can be better understood from the views of classical schools of *fiqh* and contemporary scholars. The core issue here is how to determine the exact beginning of human life. Scholars have varied in their opinions on the specific moment of the beginning of life.

a. Classical Scholars: Ensoulment is the Beginning of Human Life

The classical schools of *fiqh* agree that life starts from the moment of ensoulment, i.e., after 120 days of gestation.²⁹ The basis of their claim is the famous hadith narrated by

25 Rispler-Chaim, "Contemporary Muftis," 65–66.

26 Al-Ashqār, Shubayr, Abu al-Baṣāl, 'Ārif, and Al-Baz, *Dirāsāt Fiqhiyya*, 339.

See also: Rispler-Chaim, "Contemporary Muftis," 66.

27 Ibn Sīnā, *Al-Qānūn fī al-Ṭibb* (Beirut: Dār al-Fikr, 1994), 767–68, v. 2.

See also: Al-Rāzī, *Al-Hāwī fī al-Ṭibb* (Beirut: Dār al-Kutūb al-'Ilmiyyah, 2000), 167, v. 3.

28 Al-Nisābūrī, *Ṣaḥīḥ Muslim* (Beirut: Dār Iḥyā' al-Turāth al-'Arabī, 1986), 252, v. 1, Hadith no, 315.

29 Ibn 'Ābidīn, *Hāshiyāt R'ad al-Mukhtār* (Beirut: Dār al-Fikr, 1992), 302, v. 1.

See also: Al-Qarāfī, *Al-Furūq* (Saudi Arabia: 'Ālim al-Kutub, n.d.), 470, v. 2.

Ibn Mas‘ūd that mentions that the Prophet of Islam said: “Verily, you are aggregated in your mother’s womb for forty days, then blood clot for another forty days, then embryo for another forty days, then God sends angel ...”³⁰ Based on the classical opinion, it seems that surplus embryos in the IVF process do not possess human life because ensoulment happens only with the moment of ensoulment, i.e., before 120 days of gestation; but these embryos are not even implanted in the uterus yet. Thus, one can conclude that destroying surplus embryos is not an act of homicide because there is no human life that is put to an end.

b. Contemporary Muslim Scholars

Contemporary Muslim scholars and physicians have three opinions regarding the specific beginning of human life. This difference can be credited to the modern biomedical advancements that contribute to shaping the opinions of these scholars.

The First Position: The Emergence of Humid Liver as the Beginning of Human Life

Muslim physician Ibrahīm al-Sayyad opined that the sign of being alive is having a humid and warm liver with the functioning of the blood circulation system.³¹ Al-Sayyad’s argument was based on the prophetic hadith speaking about taking care of every creature with a humid liver.³² This is a minority opinion.

If this view is accepted, it is certainly evident that the surplus embryos in the IVF stage do not even reach the uterus of the woman, let alone the stage of blood circulation, which indicates that embryos do not have life according to this position.

The Second Position: Fertilization is the Initial Point of Human Life

Many physicians and Muslim scholars opine that the beginning of life is marked when the ovum of a woman is fertilized by the sperm of a man, i.e., the conception.³³ Some state that life starts exactly at the very moment of conception, whereas others think of a moment that takes place a little later, namely just when the fertilized ovum gets settled in the uterus.³⁴

Egyptian physician Ḥassān Ḥaṭḥūt objected to the permissibility of getting rid of the embryo before ensoulment as it is against the discovery of modern medical knowledge, which demonstrates that embryogenesis is an entirely constant process, and thus identifying the exact beginning of life is impossible.³⁵ The proponents of this position say that if the

See also: Shams al-Dīn, *Nihāyah al-Muḥtāj* (Beirut: Dār al-Fikr, 1984), 496, v. 2.

See also: Al-Zarkashī, *Sharḥ al-Zarkashī* (Dammam: Dār al-‘Obīkān, 1993), 334, v. 2.

See also: Ibn Hazm, *Al-Muḥalla* (Beirut: Dār al-Fikr, n.d.), 168, v. 8.

30 Al-Bukhārī, *Ṣaḥīḥ al-Bukhārī* (Beirut: Dār Ṭuk al-Najah 2001), 2036, v.2, Hadith no, 2643.

31 Ghaly, “The Beginning,” 179.

32 Al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, 111, v.3, Hadith no, 2363.

33 Khālīd Al-Madhkūr, “Human Life: Its Inception and End as Viewed by Islam,” *Islamic Organisation for Medical Science* January (1985), <http://islamset.net/bioethics/incept.html>.

34 Ghaly, “The Beginning,” 180–81.

35 Ghaly, “The Beginning,” 181–82.

scriptural texts in their apparent meanings are contradictory to modern science, they need to be reinterpreted metaphorically.³⁶ Moreover, they quote the classical scholar al-Ghazālī, stating that life should be respected from the beginning of pregnancy, and thus offense against this life is unethical.³⁷ The advocates of this position also say that the Qur'an (in Chapter Al-Insān: 2) uses the term *insān* to describe the fetus in the *nutfā* stage, which is the earliest stage of pregnancy.³⁸ Another argument put forward is the practical ruling in the Islamic law that considers pregnancy as a valid excuse to postpone the death sentence, without any differentiation between the period before or after the soul-breathing.³⁹

If this opinion is chosen, it can be said that embryos have life as life starts when the ovum of a woman is fertilized by the sperm of a man, which happens in the IVF process. Thus, all the surplus embryos will be considered as having life, and hence killing them would raise ethical concerns about possible homicide. However, for some advocates of this position who delay the beginning of human life until the settlement of the fertilized ovum in the uterus, destroying the surplus embryos would not raise the concern of homicide.

The Third Position: Ensoulment is the Initial Point of Human Life

In line with classical scholars, a great number of contemporary Muslim scholars and physicians advocate the thesis that ensoulment marks the beginning of human life. They argue that if death occurs when the soul leaves, life should start when the soul is breathed into the embryo.⁴⁰ The Jordanian religious scholar 'Umar al-Ashqār said that an embryo before ensoulment is dead.

The scholars mention that the prophetic traditions and their differences demonstrate that the soul is not breathed before 40 days as the angel does not visit the embryo before 40 days.⁴¹ They say that the prophetic tradition of Ibn Mas'ūd clearly describes the stages of embryonic development and refers to the moment of ensoulment. Some proponents of this position criticize resorting to the metaphorical interpretation of Quranic verses and prophetic traditions relevant to the question of ensoulment and the beginning of human life. They say that parts of these scriptural texts are definitive and thus are not open for various interpretations. However, they add that scientific knowledge is speculative in nature and thus can change over time.⁴²

These scholars also mention that the advancement of modern medical knowledge makes it easier to detect the development of the nervous system and specifically the brain, which is a scientific sign that ushers the stage of ensoulment. However, there have been disagreements among the physicians who advocate the second and third positions about

36 Ghaly, "The Beginning," 181.

37 Ghaly, "The Beginning," 185.

38 Ghaly, "The Beginning," 183.

39 Ghaly, "The Beginning," 185.

40 Ghaly, "The Beginning," 192.

41 Ghaly, "The Beginning," 193.

42 Ghaly, "The Beginning," 187.

the exact time of the formation of the brain and its completion.⁴³

From the above discussion on the beginning of human life, it is clear that majority of Muslim scholars are of the opinion that surplus embryos do not have human life because they are not even implanted in the uterus.

ANALYTICAL REMARKS

From the discussion on the status of embryos that have not yet been implanted in the uterus, it is apparent that different opinions on the beginning of human life will have different implications with regard to choosing the sex of an embryo while ignoring the surplus embryos through biomedical techniques. If the second opinion that life starts exactly when a woman's egg is fertilized by a man's sperm is chosen, it is then seen that embryos in the IVF process would be deemed as human beings. Thus, all surplus embryos will be considered as having human life and destroying these embryos will raise serious ethical questions about possible infanticide. Therefore, it implies that the termination of surplus embryos in the process of selecting the sex due to gender preference may be considered infanticide, i.e., the killing of living beings. Nevertheless, further discussions from different angles are necessary and important to claim the act as infanticide.

However, the majority of contemporary Muslim scholars still support the view of classical Muslim jurists (*fuqahā*), which links the beginning of human life to the moment of ensoulment, which occurs after the lapse of 120 days of pregnancy. If accepted, this opinion will mean that surplus embryos in the IVF process have no human life. Thus, terminating those surplus embryos cannot be deemed as infanticide.

If this is the case, why do the majority of Muslim scholars oppose choosing the sex of an embryo for even non-medical reasons? Before answering this, it can be said that sex selection is not strictly infanticide because it does not involve terminating an already existing human life. However, the two practices still have some similarities. For instance, sex selection obstructs potential human life to take the normal course of growth, by choosing not to implant the female embryo in the uterus just because of its gender. Moreover, female infanticide was motivated by specific social customs that were strongly opposed by Islam.

While poverty was one of the reasons for female infanticide in pre-Islamic Arabia, biomedical sex selection may be undertaken in poor societies where boys are valued as productive and as breadwinners. Having daughters was regarded as a source of shame and humiliation in pre-Islamic Arabia as girls were made captives and enslaved during tribal raids, and were also eventually killed. Even without the phenomenon of pre-Islamic tribal war and violence, having daughters can still be a source of societal insult in some communities and people now opt for the biomedical sex selection process for the birth of baby boys. Though ritualistic sacrifice of daughters and their killing due to ill health by pagan Arabs cannot be seen, sex selection for the birth of baby boys for various socio-economic, familial, and other utilitarian reasons is being done by a group of people in the contemporary time.

43 Ghaly, "The Beginning," 187–91.

Hence, sex selection implies the same preference for a specific gender for more or less the same reasons besides other numerous (non-medical) reasons that have emerged due to the complexities of modern time. Thus, we can see that the scholars' opposition towards sex selection for non-medical reasons is associated with the arguments related to social shame and humiliation that may come to people's minds, the bad consequences of the practice such as preferring one gender over another (as mentioned earlier), and the fear of widespread misuse of these techniques. Moreover, such practices at the public level can become an attempt to change the universal order of God.⁴⁴

CONCLUDING REMARKS

The main question of the research was: is non-medical sex selection a modernized form of the ancient and ethically abhorrent infanticide? From the above discussion, we note a variation between the involvement of pre-Islamic Arab societies in predominantly female infanticide, and the factors that influenced such practices such as the fear of poverty, ritualistic purposes, and especially social shame and humiliation.

Regarding the modern biomedical process of sex selection, which involves creating more than a single embryo, and thus the surplus embryos are terminated, we can see that the majority of Muslim scholars relate the beginning of human life to the moment of ensoulment and provide sanctity to the implanted embryos, and therefore they do not consider surplus embryos as having life. In contrast, the minority give sanctity to the non-implanted embryos, considering the life to begin at the moment of conception.

Taking the majority opinion implies that surplus embryos have no life, and thus there is no infanticide in the sex selection process. However, the similarities between infanticide and sex selection are seen from another angle, i.e., they lie in the prevention of a potential life from having a normal course of growth due to sex selection by choosing not to implant the embryo of a specific gender, and in the reasons that motivate to undergo sex selection. Hence, the majority of Muslim scholars are collectively against it, due to the negative consequences of this practice.

Islam encourages medical treatment. This is reflected in the hadith: "There is no disease that God has created, except that He has also created its remedy."⁴⁵ Thus, sex selection for medical reasons, such as avoiding inherited diseases that would affect a specific gender, is not a controversial issue among contemporary Muslim scholars who permit this practice. However, selecting gender for non-medical reasons such as feeling shame or humiliation due to the birth of a specific gender is inherently wrong and essentially a manifestation of pre-Islamic Arab societies when girls were buried alive due to the same reasons; their practice was a form of sex selection. Islam ascertains categorical negation of such practice and ensures that there is no kind of discrimination and preference of a gender over another. However, Islam acknowledges the asking and prayer of parents for a baby of a specific gender, but they must not give preference with regard to care and

44 Rispler-Chaim, "Contemporary Muftis," 71.

45 Al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, 122, v.7, Hadith no, 5678.

treatment that would indicate discrimination.

The classical accounts and some hadith narrations that describe how to try to procreate intended gender babies do not involve the current process of IVF and PGD, which produce more than one embryo and result in the ultimate termination of embryos. Moreover, these accounts demonstrate for the parents to try them, rather than experiencing the feeling of shame and sorrow for the birth of a specific gender, not to mention tolerating the act of putting the life of born girls to death or obstructing their implantation in the uterus in the first instance. Moreover, these also prove that social and cultural importance of procreating boys may have led the scholars and the physicians inclined to respond. In addition, the classical discussions on *du'ā* (seeking to God) is to make the person attached to God rather than technology.

Selecting gender in the IVF and PGD processes somehow involves destroying surplus fertilized embryos that may be assumed as potential human beings, which raises the question about the process of sex selection even for non-medical reasons. Along the same lines, Bāsalāma advocates that embryos have a sanctity that must not be violated by killing or by implantation into a surrogate mother's uterus, nor should they be exposed to laboratory experiments because such experiments might be the beginning of a human disaster.⁴⁶

Such selection may mean the misuse of biomedical techniques and creating an imbalance in God's order of society if there is widespread practice. Moreover, performing this process may also entail the notion of playing God, as this involves creating intended gender not for the process of curing sex-related inherited diseases but rather for mere expectation, which violates God's intention and will. Conversely, it is said that nothing done by a human goes beyond the will of God. Selecting gender also does not go beyond the scope of the will and power of God.⁴⁷ However, human beings have been given the freedom to do good and bad. If they will do bad, despite the action not going against the power of God, they still have to face the recompense for indulging in God's prohibitions.

Moreover, widespread sex selection may lead to harmful consequences. For instance, human intervention will probably be the cause of determining a specific gender of the population. Countries such as China and India are involved in the process of sex selection plus abortion, which is resulting in the deficit of women and excess of men.⁴⁸

The author agrees with the opinion of the scholars who advocate banning sex selection for non-medical reasons in principle, assuming that this practice is an entry to gender discrimination, a modernized form of the *jāhili* infanticide, and the reason for the destruction of surplus embryos. However, we think that the general ban can lead to some other negative consequences such as oppression against women in societies where women would be threatened, humiliated, or sometimes divorced if sons cannot be delivered. Therefore, for the greater benefit of women, the general prohibition should not be strictly

46 Bāsalāma, "Fate of Bank Deposited Embryos."

47 Al-Ashqār, Shubayr, Abu al-Başāl, 'Ārif, and Al-Baz, *Dirāsāt Fiqhiyya*, 339.

48 Gregory Pence, *Medical Ethics: Accounts of Ground-Breaking Cases* (New York, NY: McGraw-Hill Education, 2014), 98.

and unconditionally upheld. Hence, the particular case of sex selection for non-medical reasons should be permitted or forbidden based on the merit of each individual case. This should be observed by a committee which is well informed of the Sharia medical ethics and understands the religious and social implications of medical practices.⁴⁹ Above all, it is important to further investigate sex selection, the resultant termination of surplus embryos, and infanticide from both Islamic and medical perspectives.

49 Serour and Dickens, “Assisted Reproduction,” 188.

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